



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

TRG
Docket No: 5837-99
15 December 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 22 April 1989 for three years. On 9 November 1990 you were diagnosed with a single episode of major depression. On 18 July 1991 you received nonjudicial punishment (NJP) for failure to obey an order or regulation. The punishment imposed included forfeitures of pay and a reduction in rate from AD1 (E-6) to AD2 (E-5).

In the performance evaluation for the period 1 December 1990 to 18 July 1991 you were assigned adverse marks of 2.6 in the categories of rating knowledge and reliability. The evaluation comments state, in part, as follows:

... (he) attempted to remove the aft engine bolt prior to the installation of the engine stand; an action violating the engine removal procedures and safety precautions. A junior team member, upon seeing this action, summoned the shop supervisor. The shop supervisor counseled (him) that this was an improper and unsafe procedure. In spite of this counseling and clearly detailed engine removal procedures (he) later removed the aft engine bolt prior to the installation

of the engine stand. His complete disregard for proper maintenance procedures and safety precautions endangered his fellow workers and could have caused considerable damage to the aircraft and engine.

In the rebuttal to the adverse performance evaluation, you contended that you did not violate maintenance procedures, pointed out that no one was injured and there was no equipment loss or damage and , accordingly, a reduction in rate was too severe. In his endorsement, the commanding officer stated in part, as follows:

... The events surrounding (his) NJP and the evaluation in question are the culmination of a series of supervisory assignments that have resulted in an inability to discharge assigned duties. His action as the Power Plants Supervisor and a technician dramatically demonstrated a disregard for established procedures and endangered fellow workers and risked damage to equipment. (He) has failed to demonstrate the capability to perform as a First Class Petty Officer.

Despite the NJP, you were allowed to reenlist on 11 December 1991 for five years. In the evaluation for the period 19 July 1991 to 31 March 1992, you were assigned marginal marks of 3.2 in rating knowledge and reliability. You reported to your new command on 3 April 1992. You then served in an excellent manner until 31 July 1996. On that date you transferred to the Fleet Reserve in the rate of AD2 upon completion of 20 years of active service.

The NJP evidence is routinely destroyed after two years and was unavailable to the Board. However, it is clear that your contention that you did not violate the engine removal instructions was considered by your superiors and found to be without merit. The Board noted the comments in the performance evaluation that you were told not to remove the engine bolt, but did it anyway. Therefore, in the absence of evidence to the contrary, the Board concluded that the commanding officer did not abuse his discretion when he imposed NJP in your case.

You also contend, in effect, that the reduction in rate was too severe given your many years of good service and that you were being treated for depression at the time of the NJP. The Board noted that you were provided medication for your depression and were returned to duty and subsequent follow up appointments show that you were not having problems with depression. The Board also noted that you served five years after the NJP but were unable to qualify for advancement. The Board concluded that the nature of the offense which led to the NJP and the comments concerning your poor performance as a first class petty officer,

were sufficient to support a reduction in rate and the punishment imposed at the NJP was not too severe.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director